

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: C.M. No.13411 of 2006 &
CWP No.3555 of 2005

DATE OF DECISION: December 5, 2006

HUMAN SINGH AND ORS.

...PETITIONERS

VERSUS

FINANCIAL COMMISSIONER, HARYANA
AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. L.N. VERMA, ADVOCATE FOR THE
APPLICANT-RESPONDENT NO.5.
MR. JAIVIR YADAV, ADVOCATE FOR THE PETITIONERS.

ASHUTOSH MOHUNTA, J. (ORAL)

This application for dismissal of the writ petition has been filed by respondent No.5. The ground taken in the application is that this case was admitted on the statement made by the counsel for the petitioners to the effect that a civil suit, Annexure P-20 is pending before the Civil Judge (Sr. Divn.) Jhajjar. As question of title is involved, therefore, as long as the proprietary rights are not decided, the partition proceedings cannot be decided any further.

Mr. Verma, counsel for respondent No.5 has relied on a copy of the order, Annexure R-5/5 by which the Civil Judge (Sr. Divn.) Jhajjar vide his order dated 20.9.2005, had dismissed the suit filed by Joginder Singh and Sanjay Kumar (petitioner Nos.2 & 3 in the present case) as withdrawn. It is contended by Mr. Verma, that the statement made by the counsel for the petitioners was incorrect as no suit was pending on the date when the case was admitted by the High Court.

The aforementioned fact is not denied by the counsel for the petitioners. Mr. Yadav, submits that no intimation had been given to him by the petitioners. Mr. Yadav, however submits that another petitioner, namely, Human Singh has filed another civil suit before the Civil Judge, Jhajjar in which status quo has been passed.

Be that as it may. The fact is that no civil suit was pending on the date when this case was admitted, therefore, the orders dated 27.7.2006, were passed on the basis of wrong information given to the Court by the counsel for the petitioners. It is clear that no suit was pending on that date.

In view of the above, the order dated 27.7.2007 is recalled. C.M. application is allowed and the writ petition is dismissed.

**(ASHUTOSH MOHUNTA)
JUDGE**

December 5, 2006
Gulati

**(NIRMAL YADAV)
JUDGE**